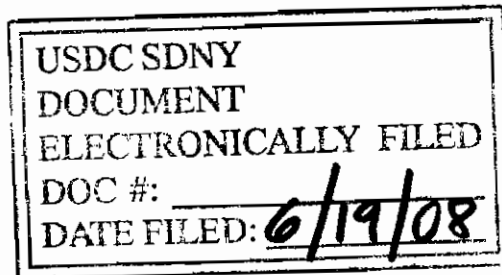
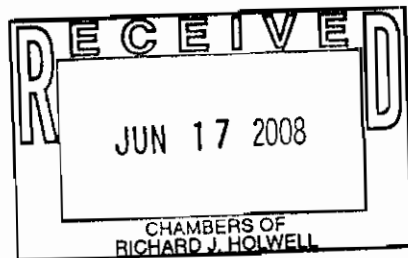


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MUSHYGUSHY.COM, LLC



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PixFusion LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 1:08-04223-RJH (HBP)
	:	
MushyGushy.com, LLC,	:	Joint Proposed Scheduling Order
	:	
Defendant.	:	

In response to the Court's Initial Scheduling Conference Notice and Order, PixFusion LLC and MushyGushy.com, LLC jointly submit herewith the following Proposed Scheduling Order:

1. Description of the Case

a. Identify the attorneys of record for each party, including lead trial attorney;

PixFusion LLC

Marc A. Lieberstein (ML 7116) (Lead)

John L. Dauer, Jr. (JD 1763)

T. David Bomzer (TB 7499)

MushyGushy.com, LLC

Pierre R. Yanney (PY 0626) (Lead)

b. State the basis for federal jurisdiction;

Patent infringement under 35 U.S.C. § 271 (28 U.S.C. § 1338)

c. Briefly describe the claims asserted in the complaint and any counterclaims;

Complaint alleges MushyGushy infringes PixFusion LLC's U.S. Patent No. 6,351,265 (the "'265 patent").

Counterclaim alleges MushyGushy does not infringe the '265 patent and some or all of the claims of the '265 patent are invalid.

d. State the major legal and factual issues in the case; and

Whether MushyGushy infringes the '265 patent?

Whether any of the claims of the '265 patent are invalid?

e. Describe the relief sought.

PixFusion is seeking damages and an injunction.

MushyGushy is seeking a declaratory judgment of patent infringement and/or patent invalidity.

2. Proposed Case Management Plan

a. Identify all pending motions;

No motions are pending.

b. Propose a cutoff date for joinder of additional parties;

August 8, 2008

- c. **Propose a cutoff date for amendments to pleadings;**
August 8, 2008
- d. **Propose a schedule for completion of discovery, including:**
 - i. **A date for Rule 26(a)(1) disclosures, if not previously completed;**
July 18, 2008
 - ii. **A fact discovery completion date;**
December 19, 2008
 - iii. **A date for Rule 26(a)(2) disclosures; and**
January 23, 2009
 - iv. **An expert discovery completion date, including dates for delivery of expert reports;**

January 23, 2009 – Due date for expert reports regarding issues for which a party bears the burden of proof

February 13, 2009 – Rebuttal expert reports due

March 20, 2009 – Close of expert discovery
- e. **Propose a date for filing dispositive motions;**
April 24, 2009
- f. **Propose a date for filing a final pretrial order; and**
May 29, 2009
- g. **Propose a trial schedule, indicating:**
 - i. **Whether a jury trial is requested;**
Yes
 - ii. **The probable length of trial; and**
5-7 days (30-42 hours)
 - iii. **When the case will be ready for trial.**
May 29, 2009

3. **Consent to Proceed Before a Magistrate Judge:** Indicate whether the parties consent unanimously to proceed before a Magistrate Judge.

No

4. **Status of Settlement Discussions**

a. **Indicate whether any settlement discussions have occurred;**

Yes

b. **Describe the status of any settlement discussions; and**

Parties are presently conducting on-going negotiations.

c. **Whether parties request a settlement conference.**


The parties request a settlement conference.

4 DATED: June 17, 2008

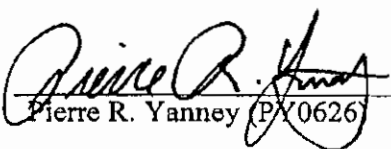
Day Pitney LLP
Attorneys for Plaintiff/Counterclaim Defendant
PixFusion LLC

5. A status conference will be held on 12/19/08 at 10:00 AM
Darby & Darby, P.C.
Attorneys for Defendant/Counterclaim Plaintiff
MushyGushy.com, LLC


By:


Marc A. Lieberstein (ML 7116)
John L. Dauer, Jr. (JD 1763)
T. David Bomzer (TB 7499)

By:


Pierre R. Yanney (PY 0626)

So Ordered:


Richard A. Holwell
United States District Judge

6/19/08